

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

WILLIE JOE DEBERRY, et al.,

Plaintiffs,

v.

GMAC MORTGAGE, LLC, et al.,

Defendants.

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Civil Action No. 7:09-CV-107(HL)

ORDER

Before this Court is Defendants GMAC Mortgage, LLC, and Homecomings Financial, LLC's ("Defendants") Motion to Dismiss (Doc. 5).

Pro se Plaintiffs Willie Joe DeBerry, Joyce DeBerry, and Shayla DeBerry Allen ("Plaintiffs"), filed their Complaint against Defendants on July 30, 2009 in the Superior Court of Cook County, Georgia (Doc. 6, Exhibit A). On August 28, 2009, Defendants removed the case to this Court (Doc. 1). On September 4, 2009, Defendants filed a Motion to Dismiss pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6) seeking dismissal of Plaintiffs' Complaint in its entirety (Doc. 5). Plaintiffs failed to respond to Defendants' Motion by the original deadline of September 28, 2009. Thereafter, this Court gave Plaintiffs an extension in which to file their response, postponing the deadline for said response until October 26, 2009 and warning Plaintiffs that "if they fail to oppose said Motion, the complaint against Defendants may be dismissed." (Doc. 9). To this date, Plaintiffs have failed to

provide any response whatsoever. On November 13, 2009, Defendants filed their Reply in Support of Motion to Dismiss, asserting Plaintiffs' continued failure to respond (Doc. 10).

A court may dismiss a case "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order." Fed. R. Civ. P. 41(b). Here, neither the Court nor Defendants have heard from Plaintiffs. Plaintiffs failed to respond to Defendants' Motion to Dismiss, and more importantly, failed to respond to said Motion after this Court's Order to respond. Thus, due to Plaintiffs' failure to prosecute and failure to comply with the Court's Order to respond, Defendants' Motion to Dismiss (Doc. 5) is hereby granted and Plaintiffs' Complaint is dismissed in its entirety.

SO ORDERED, this the 27th day of May, 2010.

s/ Hugh Lawson

HUGH LAWSON, SENIOR JUDGE

hss